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# Letter dated 13 May 2008 from the President of the International Tribunal for the Former Yugoslavia addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Criminal Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Fausto Pocar
President

08-34039 (E) 290508

## Annex I

[Original: English and French]

# Assessment and report of Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph six of the resolution, requested the International Tribunal for the Former Yugoslavia ("International Tribunal") "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the International Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".[1]

## I. Introduction

2. Out of the 161 Accused indicted by the International Tribunal, only six Accused remain in the pre-trial stage awaiting the commencement of their trials, and a further four Accused are still at large. A total of 28 Accused are presently in the course of trial – the highest number since the International Tribunal's establishment - and another nine have appeals pending. All other cases have been completed. It is presently estimated that all but three of the International Tribunal's pending trials will be completed by the end of 2009. The trials of the two most recently arrived Accused are estimated to finish in early 2010, and slippage in the *Prlić et. al.* multi-accused case currently indicates that that trial may also run into 2010. However, all efforts are being made to complete all trials as quickly and efficiently as possible, and all appeals are still presently estimated to be concluded during 2011. This estimate is nonetheless subject to a number of factors that can impinge on the expeditious completion of trials and appeals such as illness of the accused or Counsel, as well as failure of witnesses to appear and other similar unforeseen circumstances.

3. The three Trial Chambers of the International Tribunal continued throughout the reporting period to operate at record capacity, hearing eight trials simultaneously with two separate sittings in each of the International Tribunal's three courtrooms from early morning into the evening. Both the seventh and eighth trial take advantage of the inevitable gaps in the scheduling of the six other cases due to a number of factors that cause unforeseen delays in trials, including those identified above. To expedite the conduct of trials, one of the Trial Chambers hearing a multi-accused case will hold additional hearings during the three-week summer recess period so as to make use of the extended availability of the International Tribunal's courtrooms during that period. Unfortunately, court maintenance needs will prevent other Chambers from similar opportunities during the summer recess.

4. The following eight cases are currently in the trial phase: *Prosecutor v. Prlić, Stojić, Praljak, Petković, Ćorić and Pušić; Prosecutor v. Milutinović, Šainović, Ojdanić, Pavković, Lazarević and Lukić; Prosecutor v. Popović, Beara, Nikolić, Borovčanin, Miletić, Gvero and Pandurević; Prosecutor v. Delić; Prosecutor v. Boškoski and Tarčulovski; Prosecutor v. Šešelj; Prosecutor v. Gotovina, Ivan Čermak, and Mladen Markač; Prosecutor v. Jovica Stanišić and Franko Simatović.*

[1] The present report should be read in conjunction with the previous eight reports submitted pursuant to Security Council resolution 1534(2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007 and S/2007/663 of 12 November 2007.

5. There were also a number of contempt cases heard by the Chambers in the reporting period and indictments confirmed in relation to other alleged contempt cases. Many of these contempt cases arose out of the *Haradinaj et al.* case.

6. During this period, Trial Chamber Judges also managed seven cases in the pre-trial stage, leading to the issuance of 104 written decisions and seven oral decisions on such matters as the form of the indictment, challenges to jurisdiction, disclosure of evidence, protective measures for victims and witnesses, provisional release, adjudicated facts and the admissibility of witness statements under Rule 92*bis* of the Rules of Procedure and Evidence ("Rules").

7. The Appeals Chamber continued to show its productivity in relation to both the International Tribunal and the International Tribunal for Rwanda ("ICTR"). It rendered 19 interlocutory appeal decisions and 12 other decisions since the last report.[2] It further delivered Judgement in four appeals, leaving a total of only seven appeals currently pending.[3] The Appeals Chamber anticipates rendering Judgement in two appeals before the summer recess and two others shortly thereafter. Two appeals currently pending should be rendered towards the end of the year and the last appeal recently filed in the *Haradinaj et al.* case will follow shortly thereafter.

8. Currently, only six Accused in five cases await the commencement of their trial before the International Tribunal. This includes four additional Accused in three new cases. Two of these new cases result from the arrests of the fugitives Tolimir and Đorđević. Both of these fugitives had been indicted in multi-accused cases, which commenced over eighteen months ago. As I previously advised the Council, had these fugitives been arrested at an earlier time, they could have been tried together with their co-Accused. Unfortunately, their late arrest means that their fair trial rights can only be accommodated in separate trials. Of the four Accused awaiting trial, one is currently on provisional release until his trial can commence (Momčilo Perišić).[4]

9. As mentioned in the last three reports to the Council, the International Tribunal continues to seek additional avenues for the transfer of convicted persons from the United Nations Detention Unit ("UNDU") to States for the enforcement of their sentence. An agreement on enforcement of sentences was signed with Estonia on 14 March 2008 and another with Slovakia on 7 April 2008. This brings the number of States which have signed enforcement agreements to 15.

## II. Measures Taken to Implement the Completion Strategy

### A. Trial and Appeal Proceedings

10. The last eight reports to the Security Council identified various concrete measures adopted by the International Tribunal to ensure the timely implementation of the Completion Strategy. Most of the measures adopted under my Presidency stemmed from a thorough examination of trial and appeal practices carried out by the Working Groups on Speeding up Appeals and Trials. Both Working Groups were reconstituted in April 2008, not only to confirm the success of the measures adopted, but also to examine whether further improvements could be made to the efficient conduct of trials and appeals. To illustrate the impact of these concrete measures, a synopsis of their application to trials and appeals currently pending completion before the International Tribunal is provided below. Additionally, those matters out of the control of the International Tribunal which have delayed the efficient conduct of proceedings are detailed in the cases in which such issues have arisen.

11. The trial of *Dragomir Milošević* for crimes committed in Bosnia and Herzegovina in 1994 and 1995 commenced on 10 January 2007, and closing arguments were heard on 9 and 10 October 2007. Prior to the commencement of trial, the Trial Chamber issued a decision reducing the Indictment by one-third pursuant to Rule 73*bis* of the Rules. During the case, several witnesses testified pursuant to Rule 92*bis* and 92*ter*. During the Prosecution case, the Trial Chamber took judicial notice of documents pursuant to Rule 94(B). In addition, both parties requested the Chamber to take judicial notice of adjudicated facts, and these requests were granted. The Judgement was delivered on 12 December 2007.

[2] *See* Enclosures VI and VIII.
[3] *See* Enclosure VII.
[4] *See* Enclosure IV.

12. Trial proceedings in the case of *Prosecutor v. Haradinaj, Balaj and Brahimaj* were completed on 5 March 2008, after an estimated trial length of twelve months. The Prosecution finished the presentation of its evidence on 26 November 2007, having used all of its allocated 125 hours. It called a total of 81 *viva voce* witnesses and a further 16 pursuant to Rules 92*bis* and 92*quater*. Approximately half of the *viva voce* witnesses (38) testified pursuant to Rule 92*ter*. During the course of the trial, the Chamber encountered significant difficulties in securing the testimony of a large number of witnesses and issued 18 subpoenas compelling reluctant witnesses to testify. Many witnesses cited fear as a prominent reason for not wishing to appear before the Chamber to give evidence, and the parties agreed that an unstable security situation existed in Kosovo that was particularly unfavourable to witnesses. The case was significantly shortened by the decision of the Defence not to make a Rule 98*bis* submission and not to present any evidence. The Parties filed their final briefs on 14 January 2008, and the Chamber heard closing arguments on 21-23 January 2008. The Judgement was delivered on 3 April 2008, acquitting the Accused Ramush Haradinaj and Idriz Balaj of all counts, while finding the Accused Lahi Brahimaj guilty of cruel treatment and torture as violations of the laws or customs of war.

13. In the case of *Prosecutor v. Gotovina, Čermak and Markač,* measures were taken by the Judges at the pre-trial conference held on 10 March 2008 to reduce the number of *viva voce* witnesses to be called by the Prosecution. The Pre-Trial Judge ordered that no more than 112 be called. Additionally, the Prosecution announced that it will be tendering witness statements made pursuant to Rule 92*ter* for all of its *viva voce* witnesses. At the invitation of the Trial Chamber, the Prosecution also reduced the necessary hours for presentation of its case from 550 to 209.5. The Prosecution has also indicated that it will seek the admission of testimony of 12 witnesses pursuant to Rule 92*bis*. The trial commenced on 11 March 2008 with the Prosecution's opening statement, followed the next day by the Gotovina Defence's opening statement, which it opted to present at the start of the proceedings. Trial proceedings are estimated to take 18 months to complete.

14. The trial in the case of *Prosecutor v. Rasim Delić* commenced on 9 July 2007, and it is expected that the Judgement will be rendered within 12 months. The Trial Chamber allowed the Prosecution to place 73 witnesses on its witness list and granted 109 hours for the presentation of its case. When the Prosecution rested its case on 10 February 2008, it had used all 109 hours and called 64 witnesses, 52 of whom testified *viva voce*. While the Prosecution had initially planned to complete its case before the winter recess, the unavailability of one witness whose evidence the Chamber eventually heard pursuant to Rule 4 in Sarajevo caused some delay. On 10 October 2007, the Chamber granted a request by the Defence, on health grounds, to sit for four instead of five days a week for the remainder of the trial. On 26 February 2008, the Chamber rendered a Decision denying a Judgement for acquittal pursuant to Rule 98*bis*. On the same day, the Chamber reduced the number of hours available for the presentation of the Defence case from the requested 63.5 hours to 55 hours. The Defence case commenced one week after the Rule 98*bis* Decision was rendered. According to current projections, the Defence will complete its case in May 2008. Depending on further developments in the case, it can be expected that the Judgement will be delivered before the summer recess or shortly thereafter.

15. In the case of the *Prosecutor v. Jovica Stanišić and Franko Simatović*, the two Accused are charged with four counts of crimes against humanity and one count of war crimes. The Pre-Trial Judge handed down a decision reducing the indictment by one-third in early February 2008. The pre-trial conference was initially scheduled to take place on 27 February 2008, to be followed shortly thereafter by the commencement of trial. However, due to the medical situation of the Accused Jovica Stanišić, the pre-trial conference and the commencement of the case have been postponed several times. On 10 March 2008, the Trial Chamber found that the Accused was fit to stand trial, but since that day the commencement of the case has had to be postponed for medical reasons supported by a certificate from the Medical Officer of the UNDU. On 9 April 2008, the Trial Chamber decided to proceed with the case, while allowing Jovica Stanišić to follow the proceedings from the UNDU by way of video-conference link. The Prosecution requested that the evidence of the majority of its witnesses be heard pursuant to Rules 92*bis* and 92*ter*. It also requested judicial notice of approximately 500 adjudicated facts. Several of these motions are pending.

16. In the multi-accused case of *Milutinović et al.*, the six Accused are charged with five counts of war crimes and crimes against humanity allegedly committed by Serbian forces in 15 municipalities of Kosovo in the period between 1 January to 20 June 1999. The Prosecution case closed within the prescribed time on 1 May 2007. The Trial Chamber restricted the time allowed for the presentation of the Defence case pursuant to Rule 73*ter*, as it had previously done under

Rule 73*bis* with respect to the presentation of the Prosecution case. The Defence case started in August 2007, and the Trial Chamber held sessions during the summer recess between 6 and 17 August 2007. The Defence case is expected to close in late May 2008, and the Judgement should be delivered in the fall.

17. In the case against *Vojislav Šešelj*, the Accused is charged with fourteen counts of crimes against humanity and violations of the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina and in Vojvodina (Serbia), from August 1991 until September 1993. The first Prosecution witness was heard on 11 December 2007. Of the 100 witnesses scheduled by the Prosecution, the Trial Chamber has heard 14 witnesses so far. The Prosecution has used approximately 35 hours of the 120 hours granted by the Trial Chamber. While the presentation of evidence was scheduled to last one year, a number of important and unforeseen delays have occurred since the commencement of trial, including a motion for disqualification of one of the Judges, a number of contempt motions filed by both parties, and finally, the difficulties experienced by the Prosecution in getting witnesses to testify, as shown by the number of subpoenas issued by the Trial Chamber. In order to expedite the proceedings, the Trial Chamber has decided to make use of Rule 92*ter* evidence for at least 13 witnesses, despite the constant refusal of the Accused to accept this process and to cross-examine any witness whose testimony was presented under Rule 92*ter*.

18. In the multi-accused case of *Prosecutor v. Prlić et al.*, the six Accused are charged with 26 counts of war crimes and crimes against humanity related to approximately 70 crime sites allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina between the period of 18 November 1991 to about April 1994. The trial opened on 26 April 2006, with an estimated trial time of no more than three years. The Prosecution completed the presentation of its evidence after 21 months of trial, on 24 January 2008, using 297 hours of court time for direct and re-examination of its witnesses. Oral arguments under Rule 98*bis* were heard between 28 January and 6 February 2008, and the decision denying a Judgement for acquittal was issued on 20 February 2008. The six Defence teams presented their lists of witnesses and exhibits pursuant to Rule 65*ter*(G) on 31 March 2008. The pre-Defence conference and the start of the Defence case commenced on 21 April and 5 May 2008, respectively. Based on the complexity of the case and the fact that the Defence teams representing each of the six Accused are to present their respective case, it is anticipated at this stage that hearings will continue into 2010. The Trial Chamber is currently considering what measures can be implemented to minimize this currently expected delay.

19. There are seven Accused in the multi-accused case of *Popović et al.* The Indictment contains eight counts, including charges of genocide and crimes against humanity allegedly committed at 20 different crime sites. The original estimate for the length of the trial was 29 months, and the Trial Chamber has continued to issue orders which have had the effect of expediting proceedings. For instance, the Trial Chamber issued on 29 November 2007 an Order scheduling, *inter alia*, the close of the Prosecution case-in-chief for 1 February 2008 and the hearing of oral submissions pursuant to Rule 98*bis* from 14 February 2008. Owing to the unusual amount of time required for the testimony of one of the Prosecution witnesses, the Prosecution case was completed on 7 February 2008, slightly later than anticipated. However, the hearing of oral submissions pursuant to Rule 98*bis* began as scheduled on 14 February 2008. During the Prosecution phase, there were 142 *viva voce* witnesses, whose average length of examination-in-chief was 1.70 hours. Of these, ten were 92*bis* witnesses with an average length of examination-in-chief of 0.79 hours and 38 were 92*ter* witnesses with an average length of examination-in-chief of 0.66 hours. It is evident that the use of Rules 92*bis* and 92*ter* proved to be a useful means of expediting the proceedings.

20. The trial in the case of *Prosecutor v. Ljube Boškoski and Johan Tarčulovski* commenced as planned on 16 April 2007. The Prosecution was initially expected to call 98 witnesses. With significant encouragement from the Chamber, 42 witnesses were eventually removed from the Prosecution witness list. The evidence of some 30 of the remaining 56 witnesses was received in full or in part in the form of written statements. As a result of these measures, the Prosecution case was completed in December 2007, eight months after the start of the trial. The Chamber allowed three sitting weeks in January 2008 for the preparation of the Defence cases of the two Accused. Thanks to the proactive approach of the Chamber, which took a firm view regarding relevance, both Defence cases were concluded in less than two months in March 2008. Final trial briefs were filed on 24 April 2008. Closing arguments took place on 6, 7, and 8 May 2008. The Judgement is expected to be delivered by July 2008.

21. In the case against *Mićo Stanišić*, the pre-trial phase is almost complete. The Prosecution and Defence Pre-Trial Briefs were filed early in 2007. There are some outstanding motions, including motions pursuant to Rules 92*bis*, 92*ter* and 92*quater*, and a motion seeking an amendment of the Indictment.

22. Proceedings have also started in the cases of the two Accused arrested last year. In June 2007, *Zdravko Tolimir* was transferred to the seat of the International Tribunal. In August 2007, he elected to conduct his own defence. Two legal advisers and a case manager have now been assigned to his Defence team. On 14 December 2007 the Trial Chamber issued a Decision on all of the preliminary motions filed pursuant to Rule 72. From the beginning of his case, Tolimir has refused to accept documents unless they are written in "Serbian and the Cyrillic script". On 28 March 2008, the Appeals Chamber dismissed the Accused's appeal against the Pre-Trial Judge's oral decision that denied his request for the service of documents in Serbian and the Cyrillic script. Despite this Decision, the Accused continues to refuse to accept filings in Serbian and the Latin script.

23. In the *Đorđević* case, the Accused made his initial appearance on 19 June 2007. His case is proceeding in the pre-trial phase, and at this point, it is anticipated that the case will be trial ready in the early fall of 2008, barring any unforeseen difficulties. One challenging issue which could potentially impact the readiness date for this pre-trial case is that the Accused was originally one of the co-Accused in the *Milutinović et al.* case currently underway. The Prosecution has now indicated that it plans to file a request to amend the indictment in the *Đorđević* case but it is possible that the outcome of the *Milutinović et al.* case could further impact the substance of the indictment in the *Đorđević* case. Since the Judgement in *Milutinović et al.* may not be issued until the point at which *Đorđević* is trial ready, this could result in last minute or late modifications to the *Đorđević* indictment.

24. In addition to the cases outlined in the above paragraphs, Trial Chambers also heard a number of contempt cases. The indictment against Ljube Krstevski, charging him with one count of contempt of the International Tribunal for his failure to comply with a Tribunal order issued in *Prosecutor v. Ljube Boškoski and Johan Tarčulovski*, was confirmed on 30 October 2007, and an arrest warrant was issued on the same day. The Accused was transferred to the seat of the International Tribunal on 28 November 2007. His initial appearance was held the following day. On 6 December 2007, the Chamber granted the Prosecution leave to withdraw the Indictment against the Accused as it was no longer in the interests of justice to continue with the contempt proceedings, and the proceedings were thus concluded. The contempt case against Dragan Jokić is drawing to a close. The contempt proceedings were initiated following Jokić's refusal to testify in the case of *Prosecutor v. Popović et al.* The Trial Chamber decided to prosecute the matter itself and issued an Order in Lieu of Indictment on Contempt on 1 November 2007. To date, two hearings have been held, in which Jokić has led evidence from two witnesses and tendered several exhibits. Trial Chamber I is also currently considering five contempt cases in various stages of pre-indictment investigation or post-indictment, pre-trial processing, three of which arise from the *Haradinaj et al.* case.

25. As far as the Appeals Chamber is concerned, there are currently seven appeals from Judgement pending before the Appeals Chamber following the issuing of the *Hadžihasanović and Kubura* Appeals Judgement in April 2008. Of these six appeals, two are in the Judgement drafting stage, the hearings having been held in April (*Orić* was heard on 1-2 April 2008 and *Strugar* on 23 April 2008). It is currently anticipated that two other appeals, in the *Krajišnik* and *Martić* cases, will be heard in the next month, prior to the judicial recess. Two appeals in the *Mrkšić et al.* and *D. Milošević* cases will likely be heard after the court recess and should be completed by the end of the year. The recently filed appeal in the *Haradinaj et al.* case will be dealt with shortly thereafter.

26. One notable delay, which has affected both the *Mrkšić* and *D. Milošević* appeals proceedings, has resulted from the requests of the respective Defence teams for an extension of time in the briefing schedule to enable the Accused to read their respective trial Judgements in B/C/S. The extent of the resultant delay depends entirely on the resources available in the translation department, which is overburdened and can be expected to remain so for the next few years. Practically speaking, these delays will likely last approximately three-four months each. However, to minimize their impact, the Appeals Chamber has subjected the parties to a compressed briefing schedule upon receipt of the translated Judgement. The International Tribunal is also considering measures to reduce the number of written decisions issued during trial and appeal proceedings so as to ease the current burden on the translation unit.

27. In the first Completion Strategy Report submitted to the Security Council in May of 2004, the Security Council was advised that a total of eight Accused were being tried in six cases and that in the nine years following its establishment, the International Tribunal had completed or was holding first instance proceedings involving 59 Accused in 38 proceedings.[5] There were a total of 33 Accused awaiting trial in 17 cases,[6] appeals had been completed in 20 cases involving 28 Accused,[7] and 20 fugitives were at large. Today, only four years later, only six Accused are in the pre-trial stage,[8] 28 Accused are currently on trial,[9] and trial proceedings against 111 Accused have been completed. Appeals have been completed in 50 cases involving 76 Accused and only four fugitives remain at large.[10] The achievements of the International Tribunal far surpass that of any other international or hybrid court and demonstrate the commitment of the International Tribunal to the expeditious completion of its mandate.

## B. *Ad Litem* Judges

28. The *ad litem* Judges continue to make an outstanding contribution to expediting our work. Currently, the International Tribunal has a total of fifteen *ad litem* Judges, three more than permitted under the Statute of the International Tribunal, and I am grateful to the members of the Security Council for resolution 1800 of February 2008, which authorised the assignment of up to four additional *ad litems* for the period up to December 2008. This authorisation allowed the International Tribunal to commence new trials and make maximum use of its permanent Judges. All *ad litems* are fully engaged in the work of the International Tribunal. Of these fifteen, three are serving as full *ad litem* Judges on two trials, while another two are serving as *ad litem* Judges on one trial and as reserve *ad litem* Judges on an additional trial. These Judges attend two court sittings per day, from early morning into the evening. The trial schedule is arranged to maximize sitting time in both cases, and as a result, the breaks accorded to these *ad litem* Judges are few and of short duration.

29. *Ad litem* Judges who have not been assigned to an additional trial are fully engaged in the preparation of new cases for trial. Accordingly, all fifteen *ad litem* Judges have been willing to take on an onerous workload to ensure the expeditious completion of the International Tribunal's mandate and to secure the continued support of the Council and of Member States.

## C. Judges and Staff Retention

30. The number of qualified staff leaving the International Tribunal for more secure employment with other institutions has continued to increase over the reporting period. Departures of experienced staff members are detrimental to the expeditious completion of the International Tribunal's mandate. Unfortunately, in-house incentives aimed at retaining staff such as promotions and compensation time have not been sufficient to offset the lure of experienced staff to other international courts, including more permanent courts. The International Tribunal needs additional support from the Security Council and Member States in developing other incentives to retain its best staff until the work of the International Tribunal is completed.

31. Also of critical importance at this juncture is a positive resolution of the legal entitlement of the Judges to receive a pension in full parity with Judges of the International Court of Justice in accordance with the Statute of the International Tribunal, as was recommended in the independent consultant's study commissioned by the Secretary-General. The claim of the Judges to this entitlement has been long outstanding, and the failure to resolve it expeditiously and fairly has been detrimental to the morale of the Judges. Many of the International Tribunal's Judges are currently serving their second term, while a few are in their third term. The efficiency of the International Tribunal's work is premised upon the experience and dedication of all of its Judges, and the retention of these qualified and highly experienced Judges is critical to meeting the aims of the Completion Strategy.

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[5] S/2004/420, para.2.
[6] S/2004/420, Annex 3.
[7] S/2004/420, Annex 4.
[8] *See* Enclosure IV.
[9] *See* Enclosure II.
[10] *See* Enclosure III.

### D. Referral of Cases Involving Intermediate and Lower-Ranking Accused to Competent National Jurisdictions

32. The impact of referrals on the overall workload of the International Tribunal has been substantial. Of the 22 motions filed since the adoption of the rule on referrals, the Referral Bench has granted nine motions involving 15 Accused. Of those granted, ten Accused appealed to the Appeals Chamber, and all appeals have been disposed of. The appeal of one Accused, Milan Lukić, was granted by the Appeals Chamber. The other decisions upheld the referrals in the cases of *Stanković, Mejakić et al., Ljubičić, Janković and Kovačević and Trbić*. Currently, ten Accused have been transferred to the War Crimes Section of the State Court of Bosnia and Herzegovina, two Accused have been transferred to the authorities of Croatia, and one Accused has been transferred to Serbia for trial before the domestic courts of these countries.[11]

33. The Prosecution continues to monitor the trials referred to the region through the Organization of Security and Cooperation in Europe ("OSCE"). Under Rule 11*bis*, the Prosecution has the authority to request the Referral Bench to revoke its referral order should it determine that such a case is not being conducted in full adherence with human rights norms and due process standards. The War Crimes Section of the State Court of Bosnia and Herzegovina has completed two cases referred by the International Tribunal, one is at the appeal stage, and three trials are ongoing. On 28 March 2007, proceedings against the first Accused referred, *Stanković*, came to a close with the Appellate Panel of the Court of Bosnia and Herzegovina sentencing him to 20 years' imprisonment. On 25 May 2007, *Stanković* escaped from prison and is currently at large. The International Tribunal remains gravely concerned about the lack of progress on behalf of the relevant authorities in apprehending Stanković and prosecuting those allegedly responsible for assisting the escape. On 16 February 2007, the trial of *Janković* concluded with the Court finding him guilty of crimes against humanity and sentencing him to 34 years' imprisonment. On 23 October 2007, the Court of Bosnia and Herzegovina Appelate Panel upheld the Trial Panel's sentence. The first-instance Judgement in the case of *Rašević* and *Todović* was pronounced on 29 February 2008, finding the Accused guilty of crimes against humanity and sentencing them to 8.5 years' and 12.5 years' imprisonment, respectively. At present there are three trials before the Court of BiH: *Trbić, Ljubičić and Mejakić et al.* The trial in the single case referred by the International Tribunal to Croatia, that of *Ademi and Norac*, commenced on 18 June 2007 and is ongoing. In the *Kovačević* case, the only one referred to Serbia, the Belgrade District Court found on 5 December 2007 that the state of mental health of the Accused temporarily prevented criminal prosecution. The International Tribunal is satisfied that these proceedings are being conducted in full compliance with international norms of due process as recognised by the reports of the OSCE and human rights organizations.

### E. Outreach and Capacity-Building

34. Dissemination of information about the court proceedings to audiences in the former Yugoslavia continues to be a priority for the International Tribunal, as its cases and findings must be accessible and understandable to the local communities in order to make a contribution to a lasting peace, as envisaged by the Security Council.

35. Through its Outreach Programme and field offices in Belgrade, Sarajevo, Prishtinë/Priština and Zagreb, the International Tribunal is also able to engage in direct communication with interested groups and individuals across the former Yugoslavia. Its representatives participated in a multitude of grass-roots events, speaking about the International Tribunal's work and distributing information packages tailored to different groups, such as youth organizations and victims' associations. The International Tribunal provided significant assistance to a regional civil society initiative to make the International Tribunal's proceedings widely accessible through permanent documentation centres in order to assist truth-telling and reconciliation processes.

36. Mass media and the internet are two natural channels for reaching out to the populations at large in the territories of the former Yugoslavia. The International Tribunal makes great effort to serve the media in the region by providing statements, documents, and audio video materials, as well as interviews for television and radio in the local languages. The International Tribunal's website continues to attract significant interest with more than one million page hits recorded each month for the English site and close to one million each month for the B/C/S site. The audio video webcast of courtroom

[11] *See* Enclosure V.

proceedings has a large audience, with viewers for some important hearings such as the opening statements in the *Gotovina et al.* case numbering more than 120,000 in a single day.

37. Contribution to the capacity building of national justice systems in the region of the former Yugoslavia is another essential part of the International Tribunal's Completion Strategy. The International Tribunal has established good relationships and channels of communication with the local judiciaries through a number of visits, meetings and seminars. Key institutions in the region have been given electronic access to the International Tribunal's judicial database and jurisprudence. Transfer of expertise is not limited to strictly legal work. Instead, it is also taking place in areas such as support and protection of victims and witnesses or the work of court security officers.

38. In particular, the International Tribunal continued to pursue a close partnership with the State Court of Bosnia and Herzegovina, which is currently trying many locally initiated war crimes cases as well as those referred from the International Tribunal. In March 2008, the ICTY Outreach Programme hosted a visit by seven senior officials of the Court and Prosecutor's Office of Bosnia and Herzegovina, enabling high-level discussions on how to best ensure effective continuation of the International Tribunal's work in combating impunity. In April, the Judges received a visit by twelve colleagues from Sarajevo and exchanged experiences with them in two in-depth roundtable discussions. The visit also included several thematic meetings with various sections of the International Tribunal. Several other visits from the region were also hosted during the reporting period.

39. In order to ensure that the legacy of the International Tribunal is preserved through continued domestic prosecution of war crimes cases, domestic jurisdictions must be supported by the Security Council and the international community in the development of their judicial capacity. While some Member States continue to offer resources and support, it remains equally clear that further assistance is needed if these courts are to successfully continue the work of the International Tribunal in the future. For example, there still remains much work to be done to facilitate cooperation between States of the region in the investigation and prosecution of alleged war criminals, including changes to existing law to allow for extradition between States of the region. There is also a desperate need to ensure adequate detention facilities for remand and convicted accused and that the rights of remand and convicted accused are respected by those responsible for their detention. In that respect, the training of police and prison officers on due process and human rights standards should be prioritized to guarantee that trials and detention of accused and convicted persons satisfy internationally accepted standards. It is important to recall that it was never intended nor was it considered possible for the International Tribunal to try all persons responsible for the atrocities committed during the conflict in the region. The international community must therefore not underestimate the importance of building the capacity of the courts in the States of the former Yugoslavia to carry on the legacy of this International Tribunal long after it has completed its mission.

40. As previously reported to the Council, Rule 75 was amended on 12 July 2007 to allow direct petitioning by judicial authorities or duly authorized parties in other jurisdictions for access to protected material. This amendment was particularly aimed at improving judicial cooperation between the International Tribunal and domestic courts in the region of the former Yugoslavia. Since the amendment was introduced, the International Tribunal has received a large and increasing number of applications pursuant to Rule 75 from such domestic courts, and the International Tribunal has sought to streamline its procedures to ensure an efficient handling of such applications. I have, for instance, appointed a specific bench to consider applications for access to confidential material in cases that have already been finalized. The Working Group on Access to Confidential Materials is also currently exploring ways to promote efficiency in this process.

## F. Cooperation of States with the International Tribunal

41. A lack of full support from the international community for the work of the International Tribunal is evident in the continuing failure of the international community to secure the arrest and transfer of the four high-level remaining fugitives: Karadžić, Mladić, Župljanin, and Hadžić. The inability to bring these fugitives to international justice signals a failing commitment on the part of the international community to the principle that there should be no impunity for international crimes. Without the arrest and trial of these remaining fugitives, the International Tribunal's key objective to bring justice, peace and reconciliation to the region of the former Yugoslavia will be seriously undermined. The International Tribunal must not close its doors until these fugitives are arrested and tried. I once again ask all States to co-operate in full adherence with their obligation to do so under Article 29 of the Statute of the International Tribunal, and

I urge the Security Council to make clear that the trial of these fugitives by the international community does not hinge upon the International Tribunal's proposed Completion Strategy dates.

42. The Security Council wisely established the International Tribunal as an autonomous judicial body. The Prosecutor and the Judges, within their respective competences, do not act upon instructions from governments or other entities. Thus, the International Tribunal carries out its mandate within the limits decided by the Security Council, but, at the same time, in full independence. The Judges, appointed by the General Assembly, act impartially and must decide according to the presumption of innocence, as required by the Statute adopted by the Security Council and in accordance with international legal standards. When there are errors of law and/or fact, the Appeals Chamber strives to correct them within the limits of its power of review. This, however, does not take away from the fact that, in order to be fully effective, the International Tribunal has to rely to various degrees on the cooperation of governments and other entities. In addition to the lack of cooperation in arresting fugitives, the International Tribunal was also faced with refusals by governments to provide access to evidence despite good faith efforts by its organs. In this regard, I would like to emphasise that, while the International Tribunal has been at times criticized for not delivering the verdicts that some governments or other entities expected, Judges will continue to assess evenly the evidence presented before them – and only that evidence – and to make findings on guilt only if the evidence establishes individual criminal responsibility beyond a reasonable doubt.

## III. Legacy of the International Tribunal and Residual Mechanisms

43. For over two and a half years now, the International Tribunal has focused attention on its legacy and most crucially on mechanisms that will have to remain in place to dispose of residual issues once the International Tribunal completes all trials and appeals on its docket. In April 2007, the International Tribunal, in collaboration with the ICTR, submitted a second report on legacy issues to the Office of the Legal Advisor in New York for Member State consideration, which followed an earlier report submitted in December 2006. This second report resulted in a meeting of the Presidents, Registrars and Prosecutors from both Tribunals with the Security Council Working Group on the *ad hoc* Tribunals in June 2007. At that meeting, the Legacy Report of the Tribunals was debated. Following that meeting, the Tribunals, taking on board the comments of Member States, submitted a final report to the Office of the Legal Advisor in September 2007. Since the submission of that final report, both Tribunals have met with the Working Group and have responded in writing on numerous occasions to questions and clarifications of the Working Group.

44. Additionally, the International Tribunal has been working to ensure its legacy and provide a blueprint for future international courts and for the transfer of war crimes cases to domestic jurisdictions through the compilation of its best practices. With the assistance of the UN Interregional Crime and Justice Research Institute (UNICRI) as facilitators, publishers and disseminators, the International Tribunal is in the process of preparing a manual in order to identify the challenges that Judges, Prosecutors and Defence Counsel face in the conduct of war crimes cases. Also, with the assistance of the OSCE, the International Tribunal is assessing its current outreach activities and training programs with a view to identifying best practices and what remains to be achieved to guarantee its lasting impact on the work of domestic courts in the region of the former Yugoslavia. These new initiatives will ensure that the legacy of the International Tribunal's work will be secured not only through proceedings carried out by domestic courts in the region but world-wide by the courts and in the jurisprudence of all Member States.

## IV. Updated Prognosis Regarding Implementation of the Completion Strategy

45. The International Tribunal has continued its commitment to make all efforts to meet Completion Strategy deadlines, as demonstrated by this report. Unfortunately, factors outside the control of the International Tribunal have resulted in slippages in previously estimated completion dates. In those cases tried during the reporting period, delays have been caused by the illness of Accused and the failure of witnesses to cooperate. Further, the completion of the International Tribunal's mandate continues to be hindered by the failure of States to ensure the arrest of outstanding fugitives. Late arrests, such as those that recently occurred with the fugitives Tolimir and Đorđević, while better than a failure to arrest, do impact upon Completion Strategy targets. Similar delays must be expected with respect to the four remaining fugitives. That said, due to the steadfast dedication and commitment of the Judges and staff of the International Tribunal, the International Tribunal has succeeded in arriving at a clear estimation for the completion of all of its pending trials in early 2010, as shown by the chart of scheduled trials attached in Enclosure IX. Furthermore, the International Tribunal estimates

that all appeals should be concluded within 2011. However, I must underscore that these dates are projections only and that the International Tribunal is committed to identifying new measures which will assist the further efficient conduct of its trials in compliance with due process and fair trial rights of the accused. Towards that end, both the Working Groups on Speeding up Trials and on Speeding up Appeals have been reconstituted, and it is anticipated that the next Completion Strategy report will provide a summary and analysis of their findings. However, I must impress upon the Security Council that the continued success of the International Tribunal rests upon its ability to retain its highly qualified and experienced Judges and staff. The conditions and services of Judges of the International Tribunal must be respected, and the Council must show support for schemes aimed at the retention of necessary staff members.

## V. Conclusion

46. Together with the ICTR, the International Tribunal is the only universal international tribunal established with the support of the entire international community and dependent upon its continued support for the completion of its mandate. The essence of the International Tribunal's success is the invaluable precedent it has set for the enforcement of international humanitarian law and the contribution it has made to the establishment of peace and stability in the former Yugoslavia. The International Tribunal is a judicial institution charged with rendering justice impartially and in accordance with the rule of law. It cannot and does not bow to political pressure, nor will it sacrifice due process and international standards of fair trial to please all members of the international community. For the International Tribunal to be held as an enduring success in the implementation of international criminal justice, it must stand by principle, strictly abide by standards of due process and not be swayed by political pressures. Furthermore, the International Tribunal stands out as the most efficient of all existing international courts and as such deserves a high degree of respect and support from the international community. This report to the Security Council demonstrates yet again the International Tribunal's steadfast commitment to achieving greater efficiency in its work without sacrificing due process. It also amply demonstrates that the International Tribunal has continued to be more efficient and productive than any other existing international jurisdiction.

## Annex II

[Original: English and French]

# Report of Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

### 1. Introduction

1. This is the ninth report submitted by the Prosecutor pursuant to Security Council resolution 1534 (2004) of 26 March 2004.

2. During the past six months, the Office of the Prosecutor made progress towards achieving the Completion Strategy goals. However, during this period, there were no arrests and four accused, Ratko Mladić, Radovan Karadžić, Stojan Župljanin and Goran Hadžić, are still at large. Their arrests remain a crucial challenge to the International Tribunal and the international community. Without the critical support of States, and in particular from the former Yugoslavia, these fugitives will not be brought to justice.

3. During this reporting period, the Office of the Prosecutor continued to focus on four priorities: (1) the completion of trials and appeals; (2) international cooperation; (3) the transfer of cases and investigative material to national authorities and capacity building activities; and (4) structure and organisational management.

### 2. The completion of trial and appeals proceedings

4. The Office of the Prosecutor remains strongly committed to its core activity of completing the remaining trials and appeals in accordance with the Tribunal's Completion Strategy. Effectively meeting this goal requires the presentation of evidence in an efficient manner, recognising both the rights of the victims to have a representative number of the crimes brought to trial and the rights of the accused to a fair trial. The Prosecution has taken steps in the ongoing and upcoming trials to achieve this and to reduce the time necessary to present its cases.

5. The Office of the Prosecutor is presently prosecuting 28 persons in eight trials and is examining means for the efficient prosecution of the remaining six accused and four fugitives. The *Ramush Haradinaj et al.* trial was completed with the judgement rendered on 3 April 2008. Two cases have concluded and are awaiting judgement (*Ljube Boškoski & Johan Tarčulovski* and *Rasim Delić*). The ongoing trials are essentially on schedule. The Prosecution's evidence has been completed in the Tribunal's three multi-accused leadership trials (*Vujadin Popović et al.*, *Jadranko Prlić et al.* and *Milan Milutinović et al.)* and the cases are in the defence phase. The trials of *Vojislav Šešelj* and *Ante Gotovina et al.* have begun. While the health of Jovica Stanišić delayed the beginning of his trial and that of his co-Accused, the Prosecution has presented its first witnesses.

6. Two more trials, *Momčilo Perišić* and *Mićo Stanišić*, are scheduled to begin in July 2008. Two of the three remaining cases (*Milan Lukić and Sreten Lukić*, *Vlastimir Đorđević* and *Zdravko Tolimir*) involve accused who were arrested too late to be tried together with their co-accused in the multi-accused trials. Two of these accused (Vlastimir Đorđević and Zdravko Tolimir) each now require stand-alone trials. This fact illustrates the point often made by ICTY Prosecutors that the early apprehension of fugitives is critical for the Tribunal's Completion Strategy.

7. In advance of upcoming trials, the Prosecution has made a number of proposals designed to expedite proceedings without diminishing the Prosecution's case proving the essential nature and scope of each accused's responsibility.

8. These proposals, if accepted by the Chamber, reduce the Prosecution's case and shorten the length of the trial. First, the Prosecution has taken steps to reduce the scope of its case. For example, by reducing the number of witnesses it

intends to call, the Prosecution has shortened one case (*Milan Lukić and Sreten Lukić*) by at least one-third of its estimated time. In another case (*Mićo Stanišić*) the Prosecution has proposed removing 37 of the crime sites and incidents alleged in its indictment.

9. Second, the Prosecution has also put forward proposals to reduce the length of time needed to present its evidence in court. It has proposed that Trial Chambers accept the findings already made by other Chambers in proceedings before the Tribunal as permitted under Rule 94, instead of having to rehear the same evidence. In one case (*Mićo Stanišić*), this would eliminate the need to hear at least 20 witnesses. In another case (*Momčilo Perišić*), a similar proposal before the Chamber would result in a reduction of 46 witnesses, while the evidence of another 11 would be shortened.

10. The Prosecution has made alternative proposals to reduce the number of witnesses that need to testify in court by relying on written statements of their evidence, as permitted under Rules 92*bis* and 92*ter*. The President's Report highlights the importance of using such procedures. Though this often results in additional preparatory work for the Prosecution, utilising such procedures reduces valuable court time. In one case (*Jovica Stanišić and Franko Simatović*), the Prosecution has requested that the evidence of a majority of its witnesses be heard in written form and only essential evidence be presented live in court. In a second case (*Mićo Stanišić*) the Prosecution has proposed that the evidence of 64 witnesses be received entirely in written form. The Prosecution has also proposed that the written statements of 24 witnesses replace their testimony for the Prosecution so that these witnesses only appear in court to be questioned by the defence and the judges. In a third case, the Prosecution has proposed that the evidence of 44 witnesses be presented in written form only and that the statements of another 85 witnesses replace their testimony for the Prosecution, so that these witnesses only appear in court to be questioned by the defence and the judges (*Momčilo Perišić*).

11. Prosecuting complex trials where the accused are unrepresented (*Vojislav Šešelj, Mićo Stanišić, Zdravko Tolimir*) creates additional challenges. In the reporting period, the Prosecution has had to redirect significant resources to ensure effective conduct of trials consistent with the goals of the Completion Strategy. For example, in the *Vojislav Šešelj* trial, qualified Prosecution staff have had to transcribe or translate evidence from former cases into the Serbian language and to make paper copies of documents for the accused, who refuses to take advantage of the facilities available to him to receive and review evidence and documents electronically.

12. Since the Prosecutor's last report there has been a disturbing increase in the number of incidents involving interference with the Tribunal's administration of justice, either by persons interfering with prosecution witnesses or by journalists publishing confidential information. This conduct directly affects the Prosecution's ability to present its case in an effective and timely manner. The Prosecutor regards these incidents seriously. Witness protection is a paramount concern because witness cooperation is often fragile and the loss of cooperation by key witnesses can be extremely damaging to the Prosecution's case against the accused. The Prosecutor's efforts to protect its witnesses are important but not visible. Several investigations have been conducted and have resulted in indictments charging individuals with contempt of the Tribunal, an offence which attracts a maximum penalty of seven years imprisonment. The Prosecutor encourages the Council, and indeed all States, to assist the International Tribunal in protecting its ability to carry out its mandate.

13. In relation to appeals before the Appeals Chamber, the Prosecution work has been constant. The Appeals Chamber rendered a judgement in the *Enver Hadžihasanović & Amir Kubura* case and the Prosecution filed appeals in two cases: *Dragomir Milošević* and *Ramush Haradinaj et al.*

14. In relation to ongoing appeals, the Prosecution consistently met all filing deadlines, ensuring that no delay was caused. Filings were completed in the *Momčilo Krajišnik* and *Milan Martić* cases and the Prosecution is prepared to proceed once the oral hearing is scheduled. In the *Mile Mrškić and Veselin Šljivančanin* case, all Prosecution appeal filings have been completed, though there is a delay in relation to the defence appeal as the judgement has yet to be translated into a language the accused understands. The Prosecution presented its final arguments in the *Naser Orić* and *Pavle Strugar* appeal cases, which are now awaiting judgement from the Chamber.

15. The Prosecution assigned staff from the Appeals Section of the Office to assist, when necessary, on appeals which arise during the middle of a trial. By managing resources, such appeals could be dealt with by the Office in timely manner, thereby contributing to efficient trial proceedings.

16. It is expected that over the next six months, appeals practice will increase significantly. Trial Judgements are expected in two completed trials – *Ljube Boškoski & Johan Tarčulovski*, *Rasim Delić* and the first multiple-accused case - *Milutinović et al.* - which will finish in July. The Prosecution filings for any appeals from these Judgements will be prepared over the next two reporting periods. The filings in the *Mile Mrškić and Veselin Šljivančanin*, *Dragomir Milošević*, *Ramush Haradinaj et al.* cases should be completed before the end of the year. The *Momčilo Krajišnik*, *Mile Martić*, and *Mile Mrškić and Veselin Šljivančanin* cases should be heard and together with the *Naser Orić* and *Pavle Strugar* cases decided in the next reporting period. Recognising the increase in cases in this area, the Prosecution has established a staffing plan which allocates resources to meet the increased workload.

### 3. International cooperation

17. In order to fulfil its mandate, during the reporting period the Office of the Prosecutor continued to seek the full cooperation of States in the former Yugoslavia and other States, as required under Article 29 of the Statute of the Tribunal.

### 3.1. Cooperation from States of the former Yugoslavia

18. Cooperation from States of the former Yugoslavia remains vital in several areas: the access to archives and the provision of documents, access to and protection of witnesses, and the search for and the arrest and transfer of the remaining four fugitives, including taking the necessary measures against those who continue to support them.

#### 3.1.1. Cooperation of Serbia

19. During the reporting period, the ICTY Prosecutor travelled to Belgrade where he met with the Serbian President, the Prime Minister, members of Government, members of the judiciary as well as representatives of law enforcement agencies in charge of cooperation with the International Tribunal. Although several interlocutors expressed their commitment to full cooperation with the Office of the Prosecutor, including the arrest and transfer of the remaining fugitives, limited concrete results have been produced in the reporting period.

20. In terms of access to archives and the provision of documents during the reporting period, Serbia's cooperation was partially satisfactory. In the area of the search for fugitives, cooperation remains unsatisfactory.

21. The Office of the Prosecutor has received adequate responses to a number of requests for assistance. However, significant obstacles remain in relation to access to some key archives and documents for ongoing trials or those that are about to begin in the very near future. Recently, following a number of failed attempts to obtain key documents and access to military archives, the Office of the Prosecutor requested the Court to issue a binding order to Serbia to meet these obligations.

22. The Office of the Prosecutor also continues to request access to a select and crucial part of the archives of Serbia's civilian intelligence agency (BIA). Despite previous arrangements to allow supervised direct access for staff members of the Office of the Prosecutor, no access to these archives has been granted. Moreover, significant numbers of requested documents have not been provided notwithstanding specific formal requests. The refusal to provide access to the BIA archives as well as the delay in providing documents, seriously affects the work of the Office. These documents are critical for the upcoming case against Jovica Stanišić, the former chief of the civilian intelligence agency and Franko Simatović a commander of an operations unit of this agency.

23. In relation to access to witnesses, the Serbian Office of the War Crimes Prosecutor has, on several occasions, facilitated the appearance of important witnesses. The War Crimes Prosecutor also provided the ICTY Office of the Prosecutor evidentiary material from ongoing trials before the War Crimes Chambers in Belgrade.

24. Despite some actions taken by the Serbian police to protect ICTY witnesses who had received threats, protection of witnesses in Serbia and the growing failure of witnesses to appear to testify on a voluntary basis, particularly in the case against Vojislav Šešelj, remains a grave concern to the Office of the Prosecutor. Due to the serious questions about the safety of witnesses in Serbia, the Office of the Prosecutor, together with the Registry's Victims and Witnesses Section, will continue to pursue, closer cooperation with the Serbian authorities to resolve these questions.

25. The most critical area of cooperation remains the apprehension of fugitives. The Office strongly believes that the remaining accused, namely, Ratko Mladić, Radovan Karadžić, Stojan Župljanin and Goran Hadžić, are within reach of the authorities in Serbia and that Serbia can locate and arrest them. In this area, cooperation remains unsatisfactory.

26. Efforts to apprehend the fugitives include working with the various principal Serbian agencies in charge of tracking fugitives (the Action Team). During the reporting period, the pace of work of the Action Team has slowed and coordination between the principal security agencies has been far from efficient. Lack of a clear concerted strategy and systematic investigative activities directed at locating and arresting fugitives continue to impact negatively on tracking efforts. Serbian officials acknowledged that the Action Team has been working with diminished capacity due to the unstable political situation in Serbia and related uncertainties. The Office of the Prosecutor will maintain its regular contact with the Action Team in the hope of achieving more positive results in the coming months.

27. The only notable step in tracking fugitives was the action taken by the Serbian War Crimes Prosecutor in the town of Niš in an operation aimed at apprehending Stojan Župljanin. Using recently amended domestic legislation, the Serbian War Crimes Prosecutor has also opened preliminary investigative proceedings in this specific case and continues to coordinate and supervise operational activities of the relevant services. Serbian authorities are encouraged to use this legislation against the support networks and ensure that additional legislation on the freezing of assets of fugitives is adopted.

### 3.1.2 Cooperation of Bosnia and Herzegovina

28. During the reporting period, the Prosecutor travelled to Sarajevo to meet with members of the Presidency, several members of Government at the State and entity levels, members of the international community and victim representatives, to discuss cooperation and important aspects related to the work of the Office of the Prosecutor.

29. The level of cooperation provided by Bosnia and Herzegovina remains generally satisfactory.

30. The authorities of Bosnia and Herzegovina have granted access to Government archives and provided documents requested. Moreover, the authorities continued to provide adequate responses to requests for assistance and facilitate the appearance of witnesses before the Tribunal.

31. Law enforcement and judicial authorities of Bosnia and Herzegovina are requested to take more pro-active steps against those engaged in helping the fugitives evade justice or otherwise obstructing the Tribunal's effective implementation of its mandate.

### 3.1.3. Cooperation of Croatia

32. During the reporting period, the Prosecutor travelled to Croatia to meet with the Prime Minister of Croatia, Members of Government and the State Prosecutor to discuss cooperation with the Office of the Prosecutor.

33. During the reporting period, Croatia's level of cooperation with the Office of the Prosecutor has been partially satisfactory.

34. The Office of the Prosecutor requested Croatia to grant access to Government archives and produce documents in the *Jadranko Prlić et al.* and *Ante Gotovina et al.* cases, the two cases for which Croatia's cooperation is required. Although certain archival materials were made available, a number of requests for key documents are still pending. As these trials are in progress, it is crucial that the requested documents be made available immediately. In the *Ante Gotovina et al.* case, the Office of the Prosecutor is considering requesting that the Court order Croatia to meet its obligations.

### 3.1.4. Cooperation of the Former Yugoslav Republic of Macedonia

35. During the reporting period, the Office of the Prosecutor requested the assistance of the former Yugoslav Republic of Macedonia in relation to the *Ljube Boškoski and Johan Tarčulovski* trial. Despite some initial difficulties in gaining access to witnesses the level of cooperation with the Tribunal has been generally satisfactory.

### 3.1.5. Cooperation of Montenegro

36. During the reporting period, the Office of the Prosecutor continued to seek cooperation from Montenegro to take the necessary action against the networks supporting the fugitives. The level of cooperation provided by Montenegro has been generally satisfactory. The Office of the Prosecutor encourages Montenegro to continue taking all necessary measures against those supporting the fugitives.

### 3.2. Cooperation from other States and organisations

37. The Office of the Prosecutor continued to seek the assistance from States to support its work by providing documents and information necessary for the preparation of its trials and appeals. The Office of the Prosecutor also continued to be actively engaged in seeking the support of States and international organisations to obtain the arrest of remaining fugitives. It is important that the international community continue to insist on their arrest.

38. As previously reported, the Office of the Prosecutor encountered serious problems related to the protection of witnesses. The Office of the Prosecutor relies heavily on the international community's assistance in ensuring the safety of its witnesses.

39. The Office of the Prosecutor appreciates the support provided by international and regional organisations such as the EU, the OSCE, the Council of Europe and non-governmental organisations, including those active in the former Yugoslavia. Their support will continue to be crucial during the next reporting period as the work of the Tribunal progresses.

## 4. The transfer of cases and investigative material to national authorities and capacity building activities

40. The transfer of investigative case files and material to competent national jurisdictions continues to be a key component of the Tribunal's Completion Strategy together with facilitating access to material and databases in The Hague.

### 4.1. Rule 11*bis* cases

41. By June 2007, all pending Rule 11*bis* cases had been transferred to Bosnia and Herzegovina (6 cases), Croatia (1 case) and Serbia (1 case).

42. The Office of the Prosecutor has worked closely with authorities in Bosnia and Herzegovina, Croatia and Serbia on transferred cases. In Bosnia and Herzegovina, these cases have progressed well. One trial with two accused was completed and two other persons were sentenced on the basis of a plea agreement. Two cases were recently completed on appeal. The remaining three cases are underway and it is expected that judgments will be rendered in all cases before the end of 2008. In Croatia, it is expected that the one transferred case will finish by the end of May 2008. In the one case transferred to Serbia, the Presiding Judge dismissed the indictment because the accused was unfit to stand trial. The accused remains under remand in a medical facility for regular evaluation and assessment of his mental state.

43. The trials of these cases continue to be monitored by the Organization for Security and Cooperation in Europe (OSCE) on behalf of the Office of the Prosecutor. The Office of the Prosecutor receives regular monthly reports from the OSCE offices in Bosnia and Herzegovina, Croatia and Serbia. These reports serve as a basis for the Prosecutor's progress reports to the Tribunal's Referral Bench on each case.

### 4.2. The transfer of investigative material to national authorities

44. The Office of the Prosecutor continues to transfer case files containing investigative material to national prosecuting authorities in the States of the former Yugoslavia. The transfer of these files forms an important part to the Tribunal's Completion Strategy and an important aspect of the Prosecutor's close interaction with national prosecuting authorities.

45. These cases involve lower level perpetrators connected to the higher level leadership cases tried at the Tribunal. The transfer of case files is prepared in consultation and coordination with national prosecution authorities from Bosnia and Herzegovina, Croatia and Serbia. Thus far, the Office of the Prosecutor has sent eight case files to Bosnia and Herzegovina, two case files to Croatia and two case files to Serbia. In the coming months, the Prosecutor intends to transfer three more cases to Bosnia and Herzegovina.

46. Extensive preparation, transfer and follow-up work is carried out by the Office of the Prosecutor's Transition Team. Throughout the process, the Transition Team works closely with local prosecutors to support the successful prosecution of these cases before national courts.

47. Throughout the reporting period the Office of the Prosecutor maintained positive working relationships with the Offices of the State Prosecutor in Zagreb and Sarajevo and War Crimes Prosecutor in Belgrade.

48. The Prosecutor is seriously concerned that due to lack of funding or late funding for the Special Department for War Crimes of the State court of Bosnia and Herzegovina for 2009, a number of ongoing projects and contracts of staff members, including international prosecutors, may have to be terminated. This would have a serious negative impact on ongoing and upcoming trials, including those case files transferred by the Tribunal. All efforts to strengthen the fragile judicial system in Bosnia and Herzegovina would also be jeopardized.

49. Finally, pursuant to an order of the Trial Chamber under Rule 73(A), the Office of the Prosecutor handed over four investigative files to the Government of the former Yugoslav Republic of Macedonia on 14 February 2008.

### 4.3. Supporting and sharing information with national prosecution offices of the former Yugoslavia

50. The Office of the Prosecutor continued to share material stored in its document collections and databases such as the Prosecution's Electronic Disclosure System. Access was provided to the judicial authorities of Montenegro on 6 December 2007. Similar arrangements had been concluded earlier with Croatia, Bosnia and Herzegovina and Serbia.

51. The Office of the Prosecutor's Transition Team also responded to multiple requests for assistance from national prosecution authorities. The Office of the Prosecutor provides material that is not protected under the rules or by a court order. Between 1 January 2008 and end April 2008, the Office of the Prosecutor received 73 requests from national

prosecution authorities. In addition, the Transition Team frequently supported national judicial authorities in Rule 75(H) proceedings for access to confidential material.

### 4.4. Capacity building efforts and inter-State regional cooperation

52. Throughout the reporting period, the Office of the Prosecutor continued, in association with Chambers and Registry, to be actively engaged in capacity building activities. The Office of the Prosecutor is also engaged in developing effective partnerships with its counterparts in the region.

53. Expertise and knowledge gained in the Office of the Prosecutor regarding complex war crimes investigations and prosecutions is constantly shared. Staff from national prosecution offices regularly travel to The Hague to consult the Office's databases and meet with the trial teams and the Transition Team. The goal is to share methodology and lessons learned, by engaging in a constructive dialogue and by encouraging mutual exchange of information and best practices.

54. The Office of the Prosecutor encourages efforts to strengthen cooperation between national prosecutors in the countries of the former Yugoslavia, as initiated by the OSCE in the so-called "Palić process" and taken over by the Croatian State Attorney's Office at the Brijuni conference, which was held in July 2007, and subsequent Hvar conference in October 2007. In this respect, the Prosecutor looks forward to the meeting on this process in Croatia in May. In the near future, all States in the region expect to be in a position to share information contained in "inventories" of war crimes cases. The Office of the Prosecutor will monitor the effectiveness of their information and evidence sharing and support initiatives to avoid parallel proceedings.

55. Nevertheless, despite this progress, two main obstacles remain to effective inter-state judicial cooperation, i.e. the failure to resolve the issue of non-extradition of nationals and the abolition of the legal barriers which prevent the transfer of war crimes proceedings between all the States of the former Yugoslavia. This judicial vacuum, which allows alleged war criminals in the region evade justice, results in an "impunity gap" and denies victims justice. Although there continues to be progress in the transfer of case materials and evidence between Serbia, Croatia and Montenegro, these issues must be addressed by all authorities concerned.

56. During the reporting period, the Office of the Prosecutor has encouraged effective regional cooperation between security and intelligence services. The Office of the Prosecutor has attended meetings with the heads of intelligence services of Bosnia and Herzegovina, Serbia, Montenegro, the former Yugoslav Republic of Macedonia and Slovenia to strengthen ties, improve information exchange and address the problem of fugitives and their support networks. This practice will be continued.

## 5. Structure and organisational management

57. In line with the budget, the reorganisation of the Office of the Prosecutor has been successfully implemented. The Investigations Division was merged with the Prosecution Division to create a new Trial Section which conducts and directly supports ongoing trials.

58. As trials are completed, the Appeals Section will be strengthened to handle the increase in appellate work. Until October 2009, the Office of the Prosecutor will continue to function at full capacity, in both trials and appeals, stretching its resources to cope with the remaining work-load.

59. The Office will also continue to focus on transitional justice work, particularly the transfer of investigative materials and providing support to national prosecutors, in order to strengthen domestic jurisdictions.

60. In the last term of 2009, the Office of the Prosecutor envisages considerable reductions in staff and non-post items such as travel and General Temporary Assistance.

61. Retention of staff members in the Office of the Prosecutor is critical to the successful completion of trials and appeals. As the Tribunal nears the completion of its work, increasing numbers of talented staff may start leaving the institution. The loss of institutional specialised knowledge and the difficulty in hiring experienced staff to complete remaining trials may impact on the Prosecutor's ability to meet his commitments in completing the Tribunal's work. This is an institution-wide problem. With the President and the Registrar, the Prosecutor supports initiatives to find ways to retain qualified and competent staff until the completion of the mandate.

62. In close consultation with the President and Registrar, the Prosecutor remains engaged in the planning process for the future of the Tribunal, once all trials and appeals on its docket are completed. Discussions in this regard are currently ongoing at the level of the United Nations Security Council.

## 6. Conclusion

63. The Office of the Prosecutor remains fully committed to the completion of trials and appeals in accordance with the objectives of the Completion Strategy. The Prosecutor continues to take steps to speed up proceedings, working closely with other organs of the Tribunal to explore ways to expedite proceedings while respecting the rights of the accused.

64. The Prosecutor works closely with the Offices of the State Prosecutors in Bosnia and Herzegovina and Croatia and the Office of the War Crimes Prosecutor in Serbia. As trial and appeals work progresses, the Office of the Prosecutor remains fully determined and committed to strengthening judicial systems in the States of the former Yugoslavia. Cooperation with national prosecution authorities is a cornerstone of the Office's strategy and will remain a priority in the coming years.

65. Cooperation by the international community and States from the former Yugoslavia remain key factors for the successful completion of the Tribunal's work. States from the former Yugoslavia are reminded of their obligation to fully cooperate with the Office of the Prosecutor by providing access to archives and documents, access to and protection of witnesses and tracking and arresting fugitives. In all these areas, cooperation is not yet wholly satisfactory and requires improvement. The fact that the four accused - Ratko Mladić, Radovan Karadžić, Stojan Župljanin and Goran Hadžić - remain at large is unacceptable as they must be tried by the Tribunal. Failing to arrest them will delay the completion of the International Tribunal's work.

**Enclosure I**

| 1. Persons Convicted or Acquitted after Trial between 15 November 2007 – 15 May 2008 | | | | |
|---|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Initial Appearance** | **Judgement** |
| 1. | Dragomir Milošević | Chief Commander, Romanija Corps, VRS | 7-Dec-04 | Judgement delivered on 12 December 2007 Trial Chamber sentences accused to thirty-three years of imprisonment |
| 2. | Ramush Haradinaj | Commander, KLA | 14-Mar-05 | Judgement delivered on 3 April 2008 Accused acquitted on all counts |
| | Idriz Balaj | Commander, KLA | 14-Mar-05 | Judgement delivered on 3 April 2008 Accused acquitted on all counts |
| | Lahi Brahimaj | Deputy Commander, KLA | 14-Mar-05 | Judgement delivered on 3 April 2008 Accused found guilty of cruel treatment and torture as violations of the laws or customs of war. Trial Chamber sentences accused to six years' imprisonment |
| 3. | Enver Hadžihasanović | Brig. Commander, ABiH | 9-Aug-01 | Judgement delivered on 22 April 2008 Appeals Chamber reduces the sentence of five years of imprisonment to three years and six months of imprisonment |
| | Amir Kubura | Commander, ABiH | 9-Aug-01 | Judgement delivered on 22 April 2008 Appeals Chamber reduces the sentence of thirty months of imprisonment to two years of imprisonment |

| 2. Persons Pleading Guilty between 15 November 2007 – 15 May 2008 | | | | |
|---|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Initial Appearance** | **Judgement** |
| **No Guilty Pleas** | | | | |

| 3. Persons Convicted of Contempt between 15 November 2007 – 15 May 2008 | | | |
|---|---|---|---|
| **Case** | **Name** | **Initial Appearance** | **Judgement** |
| **No Convictions of Contempt** | | | |

**Legend:**
*VRS:* *Bosnian Serb Army*
*KLA:* *Kosovo Liberation Army*
*ABiH:* *Army of Bosnia and Herzegovina*

**Enclosure II**

| 1. Trials in Progress between 15 November 2007 – 15 May 2008 (28 Accused in 8 cases) | | | | |
|---|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Initial Appearance** | **Comments** |
| 1. | Jadranko Prlić | President, "Herceg-Bosna" | 6-Apr-04 | "Herceg-Bosna" Trial commenced 26 April 2006 |
| | Bruno Stojić | Head, Department of Defence, "Herceg-Bosna" | | |
| | Slobodan Praljak | Assistant Minister of Defence, "Herceg-Bosna" | | |
| | Milivoj Petković | Commander, HVO | | |
| | Valentin Ćorić | Chief of Military Police Administration, HVO | | |
| | Berislav Pušić | Military Police Commanding Officer, HVO | | |
| 2. | Dragoljub Ojdanić | Chief of Staff, VJ | 26-Apr-02 | "Kosovo" Trial Commenced 10 July 2006 |
| | Nikola Šainović | Deputy Prime Minister, FRY | 3-May-02 | |
| | Milan Milutinović | President, Republic of Serbia | 27-Jan-03 | |
| | Vladimir Lazarević | Commander, Pristina Corps, VJ, Kosovo | 7-Feb-05 | |
| | Sreten Lukić | Head Staff, Serbian Ministry of Internal Affairs, VJ, Kosovo | 6-Apr-05 | |
| | Nebojša Pavković | General, Commander of 3rd VJ Army, Kosovo | 25-Apr-05 | |
| 3. | Ljubiša Beara | Colonel, Chief of Security, VRS | 12-Oct-04 | "Srebrenica" Trial Commenced 14 July 2006 |
| | Drago Nikolić | Chief of Security, Drina Corps, VRS | 23-Mar-05 | |
| | Ljubomir Borovčanin | Deputy Commander, Ministry of Interior Special Police Brigade, RS | 7-Apr-05 | |
| | Vujadin Popović | Lt. Colonel, Assist. Commander, Drina Corps, VRS | 18-Apr-05 | |
| | Vinko Pandurević | Commander, Zvornik Brigade, VRS | 31-Mar-05 | |
| | Milan Gvero | Assistant Commander, VRS | 2-Mar-05 | |
| | Radivoje Miletić | Chief of Operations, Deputy Chief of Staff, VRS | 2-Mar-05 | |
| 4. | Johan Tarčulovski | Personal Security Officer for President, FYROM | 21-Mar-05 | Trial Commenced 16 April 2007 |

| | | | | |
|---|---|---|---|---|
| | Ljube Boškoski | Minister of Interior, FYROM | 1-Apr-05 | |
| 5. | Rasim Delić | Commander of the Main Staff of the Army of BiH | 03-Mar-05 | Trial Commenced 12 June 2007 |
| 6. | Vojislav Šešelj | President, SRS | 26-Feb-03 | Trial Commenced 7 November 2007 |
| 7. | Ante Gotovina | Commander, Split Military District, HV | 12-Dec-05 | Trial Commenced 11 March 2008 |
| | Ivan Čermak | Assistant Minister of Defence, Commander of Military Police, Croatia | 12-Mar-04 | |
| | Mladen Markač | Special Police Commander, Croatia | 12-Mar-04 | |
| 8. | Franko Simatović | Commander, Special Operations Unit, State Security Services ("DB"), Republic of Serbia | 2-Jun-03 | Trial Commenced 29 April 2008 |
| | Jovica Stanišić | Head, State Security Services ("DB"), Republic of Serbia | 12-Jun-03 | |

**Legend:**

*FRY:* *Federal Republic of Yugoslavia*
*Herceg-Bosna:* *Croatian Republic of Herceg-Bosna*
*HVO:* *Croatian Defence Council*
*RS:* *Republika Srpska*
*VRS:* *Bosnian Serb Army*
*VJ:* *Armed Forces of the Federal Republic of Yugoslavia*
*FYROM:* *Former Yugoslav Republic of Macedonia*
*BiH:* *Bosnia and Herzegovina*
*SRS:* *Serbian Radical Party*
*HV:* *Croatian Army*

**Enclosure III**

| 1. Arrivals at the Tribunal between 15 November 2007 – 15 May 2008 | | | | | |
|---|---|---|---|---|---|
| | **Name** | **Former Title** | **Place of crime** | **Arrival Date** | **Initial Appearance** |
| **No new arrivals for this period** | | | | | |

| 2. Remaining Fugitives between 15 November 2007 – 15 May 2008 (4 Accused) | | | | |
|---|---|---|---|---|
| | **Name** | **Former Title** | **Place of Crime** | **Date indictment** |
| 1 | Radovan Karadžić | President, RS | BiH | 25 July 1995 |
| 2 | Ratko Mladić | Commander, Main Staff, VRS | BiH | 25 July 1995 |
| 3 | Goran Hadžić | President, "SAO SBWS" | Croatia | 28 May 2004 |
| 4 | Stojan Župljanin | Head or Commander of the Serb Operated Regional Security Services Centre | Krajina, Croatia | 6 October 2004 |
| | **Total Remaining Indictees: 4** | | | |

**Legend**:
*RS: Republika Srpska*
*VRS: Bosnian Serb Army*
*SAO SBWS: Serbian Autonomous District, Slavonia Baranja and Western Srem*

**Enclosure IV**

| Accused Awaiting Trial for the period between 15 November 2007 – 15 May 2008 (6 accused, 5 cases) | | | |
|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Initial Appearance** |
| 1. | Momčilo Perišić* | Chief of General Staff, VJ | 9-Mar-05 |
| 2. | Mićo Stanišić | Minister, Internal Affairs, RS | 17-Mar-05 |
| 3. | Zdravko Tolimir | Assistant Commander for Intelligence and Security of the Bosnian Serb Army | 04-Jun-07 |
| 4. | Vlastimir Đorđević | Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP | 19-Jun-07 |
| 5. | Sredoje Lukić | Member, Serb Paramilitary Unit, BiH | 20-Sept-05 |
| | Milan Lukić | | 24-Feb-06 |

* *Accused has been granted provisional release.*

**Legend:**

*VJ:* *Armed Forces of the Federal Republic of Yugoslavia*
*RS:* *Republika Srpska*
*BiH:* *Bosnia and Herzegovina*

**Enclosure V**

| 1. 11*bis* motions pending between 15 November 2007 – 15 May 2008 | | | | |
|---|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Motion filed** | **Status** |
| *No 11bis motions pending to date* | | | | |

| 2. 11*bis* motions pending on appeal between 15 November 2007 – 15 May 2008 | | | | |
|---|---|---|---|---|
| **Case** | **Name** | **Former Title** | **Motion filed** | **Status** |
| *No 11bis motions pending to date* | | | | |

| 3. 11*bis* cases referred between 15 November 2007 – 15 May 2008 |
|---|
| *In total, 13 Accused in 8 cases have been referred to the region on Rule 11bis motions to date.* |

**Enclosure VI**

## APPEALS COMPLETED FROM 15 November 2007 [1]

(with date of filing and Decision) Updated to 5 May 2008

### INTERLOCUTORY

| | | |
|---|---|---|
| **ICTY** | | |
| 1. | Prlić et al. IT-04-AR73.6 | 15/10/07-23/11/07 |
| 2. | Popovi} et al. IT-05-88-AR73.1 | 01/11/07-14/12/07 |
| 3. | [ešelj IT-03-67-AR77.1 | 12/11/07-14/12/07 |
| 4. | Milutinović et al. IT-05-87-AR65.3 | 14/12/07-18/12/07 |
| 5. | Milutinović et al. IT-05-87-AR65.4 | 14/12/07-18/12/07 |
| 6. | Milutinović et al. IT-05-87-AR65.5 | 14/12/07-18/12/07 |
| 7. | Gotovina et al. IT-06-90-AR65.1 | 28/11/07-17/01/08 |
| 8. | Gotovina et al. IT-06-90-AR65.2 | 04/01/08-24/01/08 |
| 9. | [ešelj IT-03-67-AR73.6 | 05/12/07-24/01/08 |
| 10. | Popovi} et al. IT-05-88-AR73.2 | 06/11/07-30/01/08 |
| 11. | Popovi} et al. IT-05-88-AR73.3 | 12/11/07-01/02/08 |
| 12. | Prlić et al. IT-04-74-AR65.5 | 21/02/08-11/03/08 |
| 13. | [ešelj IT-03-67-AR73.7 | 01/02/08-11/03/08 |
| 14. | Tolimir IT-05-88/2-AR73.1 | 31/01/08-28/03/08 |
| 15. | Prlić et al. IT-04-74-AR65.7 | 01/04/08-21/04/08 |
| 16. | Delić IT-04-83-AR73.1 | 25/03/08-15/04/08 |
| 17. | Prlić et al. IT-04-74-AR65.7 | 01/04/08-21/04/08 |
| **ICTR** | | |
| 1. | Karemera et al. ICTR-98-44-AR73.12 | 15/10/07-06/12/07 |
| 2. | Karemera et al. ICTR-98-44-Ar73.11 | 09/10/07-24/01/08 |

### FROM JUDGEMENT

| | | |
|---|---|---|
| **ICTY** | | |
| 1. | Hadžihasanovi}/Kubura IT-01-47-A | 13/04/06-22/04/08 |
| **ICTR** | | |
| 1. | Simba ICTR-01-76-A | 14/12/05-27/11/07 |
| 2. | Media ICTR-99-52-A | 12/12/03-28/11/07 |
| 3. | Seromba ICTR-01-66-A | 11/01/07-12/03/08 |

### OTHER

| | | |
|---|---|---|
| **ICTY** | | |
| 1. | Gotovina IT-06-90-AR108bis.2 | 06/12/07-17/01/08 |
| 2. | Bala IT-03-66-A | 07/02/08-14/02/08 |
| 3. | Zelenović IT-96-23/2-ES | 11/02/08-21/02/08 |
| **ICTR** | | |
| 1. | Niyitegeka ICTR-96-14-R | 22/08/07-24/01/08 |
| 2. | Rutaganda ICTR-96-3-R | 07/08/07-31/01/08 |
| 3. | Ngeze ICTR-99-52-R | 28/12/07-31/01/08 |
| 4. | Ngeze ICTR-99-52-R | 13/02/08-28/02/08 |
| 5. | Ngeze ICTR-99-52-R | 25/02/08-28/02/08 |
| 6. | Ngeze ICTR-99-52-R | 25/02/08-03/03/08 |
| 7. | Barayagwiza ICTR-99-52-R | 06/03/08-11/04/08 |
| 8. | Nahimana ICTR-99-52-R | 27/03/08-21/04/08 |
| 9. | Rutaganda ICTR-96-3-R | 06/02/08-23/04/08 |

### REFERRAL

### REVIEW

### CONTEMPT

[1] **Total Number of Appeals Completed from 15 November 2007 = 35**

Interlocutory Appeals = 19 Contempt = 0 Referral = 0
Appeals from Judgement = 4 Review = 0 Other = 12

# Enclosure VII

## APPEALS pending as of 15 MAY 2008 [2]

(with date of filing) Updated to 5 May 2008

### INTERLOCUTORY

| | |
|---|---|
| **ICTY** | |
| 1. Prlić et al. IT-04-74-AR72.3 | 05/03/08 |
| 2. Prlić et al. IT-04-74-AR65.8 | 08/04/08 |
| 3. Prlićet al. IT-04-74-AR65.9 | 09/04/08 |
| 4. Popovićet al. IT-05-88-AR65.4 | 10/04/08 |
| 5. Popović et al. IT-05-88-AR65.5 | 10/04/08 |
| 6. Popović et al. IT-05-88-AR65.6 | 10/04/08 |
| 7. Stanišić/Simatović IT-03-69-AR73.2 | 23/04/08 |
| 8. Prlić et al. IT-04-74-AR73.7 | 02/05/08 |
| **ICTR** | |
| 1. Karemera et al ICTR-98-44-AR73.13 | 11/03/08 |
| 2. Bicamumpaka ICTR-99-50-AR73.7 | 28/03/08 |

### FROM JUDGEMENT

| | |
|---|---|
| **ICTY** | |
| 1. Orić IT-03-68-A | 31/07/06 |
| 2. Krajišnik IT-00-39-A | 25/10/06 |
| 3. Strugar IT-01-42-A | 07/06/07 |
| 4. Martić IT-95-11-A | 12/07/07 |
| 5. Mrkšić IT-95-13/1-A | 29/10/07 |
| 6. D. Milošević IT-98-29/1-A | 31/12/07 |
| 7. Haradinaj et al. IT-04-84-A | 01/05/08 |
| **ICTR** | |
| 1. Muvunyi ICTR-00-55A-A | 12/10/06 |
| 2. Karera ICTR-01-74-A | 14/12/07 |

### OTHER

| | |
|---|---|
| **ICTR** | |
| 1. Ngeze ICTR-99-52-52-R | 07/04/08 |
| 2. Niyitegeka ICTR-96-14-R | 14/04/08 |
| 3. Ngeze ICTR-99-52-52-R | 02/05/08 |
| 4. Barayagwiza ICTR-99-52-R | 02/05/08 |

### REFERRAL

### REVIEW

### CONTEMPT

[2] **Total Number of Appeals Pending = 23**

Interlocutory Appeals = 10 Contempt = 0 Referral = 0
Appeals from Judgement = 9 Review = 0 Other = 4

# Enclosure VIII

**MOTIONS decided from 15 NOVEMBER 2007 To 5 May**

| ICTR | | ICTY | |
|---|---|---|---|
| 16/11 | Muvunyi | 16/11 | Limaj |
| 23/11 | Muvunyi | 23/11 | Orić |
| 14/12 | Karera | 23/11 | Krajišnik |
| 21/12 | Karera | 30/11 | Hadžihasanović & Kubura |
| 09/01 | Karera | 03/12 | Krajišnik |
| 11/01 | Ngeze | 05/12 | Krajišnik |
| 29/01 | Muvunyi | 11/12 | Mrk{i} & [ljivan~anin |
| 31/01 | Seromba | 14/12 | Mrk{i} & [ljivan~anin |
| 12/02 | Rutaganda | 14/12 | Milutinović et al. |
| 20/02 | Ngeze | 07/01 | Krajišnik |
| 28/02 | Ngeze | 10/01 | Marti} |
| 11/03 | Ngeze | 14/01 | Strugar |
| 19/03 | Karemera et al. | 15/01 | Gotovina et al. |
| 19/03 | Barayagwiza | 29/01 | Strugar |
| 28/03 | Nahimana et al. | 01/02 | Mrk{i} & [ljivan~anin |
| 28/03 | Bizimungu et al. | 08/02 | Krajišnik |
| 03/04 | Karera | 11/02 | Krajišnik |
| 17/04 | Ngeze | 13/02 | D. Milo{ević |
| 21/04 | Niyitigeka | 20/02 | D. Milo{ević |
| 25/04 | Muvunyi | 22/02 | Prli} et al. |
| | | 22/02 | Marti} |
| | | 28/02 | Krajišnik |
| | | 04/03 | Krajišnik |
| | | 10/03 | Marti} |
| | | 10/03 | Orić |
| | | 27/03 | Krajišnik |
| | | 02/04 | Strugar |
| | | 04/04 | Marti} |
| | | 09/04 | Mrk{i} & [ljivan~anin |
| | | 11/04 | Hadžihasanović & Kubura |
| | | 11/04 | Krajišnik |
| | | 15/04 | Hadžihasanović & Kubura |
| | | 15/04 | Strugar |
| | | 16/04 | Marti} |
| | | 18/04 | Krajišnik |
| | | 18/04 | Krajišnik |
| | | 18/04 | D. Milo{ević |
| | | 22/04 | Mrk{i} & [ljivan~anin |
| | | 05/05 | Mrk{i} & [ljivan~anin |

Possible schedule for on-going and future trials
2006
2007
2008
2009
2010
Dalić
Perišić
Gotovina/Čermak/Markač
Stanišić/Simatović
Đorđević
Popović/Beara/Nikolić/Borovčanin/Miletić/Gvero/Pandurević
Tolimir
Bošković/Tarculovski
M Stanišić
Prlić/Stojić/Praljak/Petković/Ćorić/Pušić
Šešelj
Milutinović/Ojdanić/Šainović/Lukić/Pavković
Lukić/Lukić
Fugitives : to be tried if the fugitives arrive
(Karadžić)/(Mladić) - possible joinder with Perišić
(Đ.Đajić) - possible joinder with M Stanišić
(Hadžić)
New Cases for trial: